

House Bill 52

By: Representatives Forster of the 3rd, Ralston of the 7th, Oliver of the 83rd, Manning of the 32nd, Reese of the 98th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 5 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to arrest and detention with regard to juvenile proceedings, so as to change provisions relating to interim control or detention of accused children; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 5 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to arrest and detention with regard to juvenile proceedings, is amended by revising Code Section 15-11-46.1, relating to interim control or detention of accused children, as follows:

"15-11-46.1.

(a) As a matter of public policy, restraints on the freedom of accused children prior to adjudication shall be imposed only when there is probable cause to believe that the accused child did the act of which he or she is accused and there is clear and convincing evidence that the child's freedom should be restrained.

(b) The imposition of interim control or detention on an accused child may be considered for the purposes of:

(1) Protecting the jurisdiction and process of the court;

(2) Reducing the likelihood that the child may inflict serious bodily harm on others during the interim period; or

(3) Protecting the accused child from imminent bodily harm upon his or her request.

(c) Interim control or detention shall not be imposed on an accused child under the age of 16; instead, the child shall be released immediately to the child's parents, guardian, or other custodian upon such person's promise to bring the child before the court when requested by the court.

~~(c)~~(d) Interim control or detention shall not be imposed on an accused child:

- (1) To punish, treat, or rehabilitate the child;
- (2) To allow parents to avoid their legal responsibilities;
- (3) To satisfy demands by a victim, the police, or the community;
- (4) To permit more convenient administrative access to the child; or
- (5) To facilitate further interrogation or investigation.

~~(d)~~(e) Whenever an accused child cannot be unconditionally released, conditional or supervised release that results in the least necessary interference with the liberty of the child shall be favored over more intrusive alternatives.

~~(e)~~(f) Whenever the interim curtailment of an accused child's freedom is permitted under this Code section, the exercise of authority shall reflect the following values:

- (1) Respect for the privacy, dignity, and individuality of the accused child and his or her family;
- (2) Protection of the psychological and physical health of the child;
- (3) Tolerance of the diverse values and preferences among different groups and individuals;
- (4) Assurance of equality of treatment by race, class, ethnicity, and sex;
- (5) Avoidance of regimentation and depersonalization of the child;
- (6) Avoidance of stigmatization of the child; and
- (7) Assurance that the child has been informed of his or her right to consult with an attorney and that if the child cannot afford an attorney, one will be provided."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.